

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-v-

5:07-CR-443

EFRAIN ROSA,

Defendant.

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APPEARANCES:

OF COUNSEL:

Andrew Baxter, Acting  
United States Attorney  
Northern District of New York  
James M. Hanley Federal Building  
and Courthouse  
P.O. Box 7198  
100 South Clinton Street  
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Lisa M. Fletcher, Esq.  
Assistant U.S. Attorney

Alexander Bunin  
Federal Public Defender  
4 Clinton Square, 3<sup>rd</sup> Floor  
Syracuse, New York 13202  
*Attorney for Defendant*

Lisa A. Peebles, Esq.  
Assistant Federal Public Defender

**Norman A. Mordue, Chief U.S. District Judge**

**MEMORANDUM-DECISION AND ORDER**

Defendant herein has made two motions - one that requests that I recuse myself from consideration of this matter and the second which seeks reconsideration of this Court's previous denial of defendant's motion to suppress evidence. In connection with recusal, the Court has considered the arguments raised by defendant both in his papers and at the hearing on this matter conducted on September 12, 2008, and rejects them.

The Court finds that by any objective standard, my mere membership in the Tigris Shrine of which defendant's father was at one time CEO is not a factor which calls into question my

impartiality. *See* 28 U.S.C. § 455(a). Insofar as the alleged “antagonism” surrounding defendant’s father’s leadership of the Tigris Shrine and the alleged passing on of information concerning defendant’s arrest and prosecution in this case from unidentified Shrine member(s) to the organization’s World Headquarters, I have no knowledge of or interest in these purported facts. Indeed, although I am a dues paying member of the Tigris Shrine, I have attended only two meetings in the last twenty-five (25) years. Moreover, I have no recollection of ever meeting defendant’s father. Consequently, there is no evidence that actual bias on the part of the Court exists or that there would be an appearance of bias in my continued presiding over this case.

Regarding defendant’s second motion, reconsideration is appropriate in light of an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice. *See Doe v. New York City Dep't of Social Servs.*, 709 F.2d 782, 789 (2d Cir. 1983). The decision whether to reopen a suppression hearing lies within the Court's discretion. *See United States v. Bayless*, 201 F.3d 116, 131-32 (2d Cir. 2000). In the present case, defendant has failed to raise new facts or law in his motion for reconsideration of this Court’s denial of his motion for suppression. Rather, he relies solely on grounds raised previously and rejected expressly by the Court.

Based on the foregoing, it is hereby

ORDERED that defendant's application for my recusal pursuant to 28 U.S.C. § 455(a) is DENIED and it is further

ORDERED that defendant’s motion for reconsideration of the Court’s August 6, 2008,

Order which denied his motion for suppression is DENIED.

IT IS SO ORDERED.

Dated: September 12, 2008  
Syracuse, New York

A handwritten signature in black ink, appearing to read "Norman A. Mordue", written over a horizontal line.

Norman A. Mordue  
Chief United States District Court Judge

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